IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

::::

O R D E R

MS. SUNITA DAUKIYA VS. THE STATE OF RAJ. & ORS.

S.B. CIVIL WRIT PETITION NO.2237/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 5.7.2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mrs Prathistha Dave, for the petitioner.
Mr. Rameshwar Dave, Dy.GA, for the respondent-State.

<><><>

BY THE COURT: -

In the present writ petition, the petitioner has made following prayer : -

> "(i) The respondents be directed to undertake selection process to fill up the 818 posts on which

persons appointed on temporary basis are continuing.

(ii) The respondents be directed to advertise the vacancies and also to publish the criteria to be adopted for making selection.

(iii) The respondents be directed to consider the marks of the examination of Nursing Training Course only and if marks of Senior Higher Secondary are to be taken into consideration then it may only consider such candidates having Science Group (Physics, Chemistry & Biology) which is the group of eligibility to get admission in Nursing Training Course.

(iv) The past practice upto 1999 of making appointment as per registration number was a reasonable criteria therefore the respondents be directed to continue it an if any change is made the criteria should be published alongwith the notification inviting application to fill up the posts.

(v) That the respondents be directed to fill in 568 posts by making regular selection and after due publication of notice and criteria and not to allow and extend the temporary services against these 568 posts of Annexure 10 dated 21.1.2000.

(vi) The respondents be directed to make the selection strictly in accordance with the rules and mandate of the Constitution and in a fair manner and criteria.

(vii) That the women candidates be granted appointment to the extent of 70 percent of the total posts as per the ratio in which admissions to Nursing Training Course were granted vide Annexure 4.

(viii) Any other appropriate writ, order or direction which is deemed fit in the facts and circumstances of the case by this Hon'ble Court may kindly be passed in favour of the petitioner.

(ix) The writ petition may kindly be allowed with cost."

Notice to show cause was issued to the respondents in the present writ petition vide order dated 11.7.2002. When the present writ petition came up for consideration on 4.7.2006, the attention of the Court was invited towards the order passed in S.B. Civil Writ Pettion No.5049/2003- Manjulata & Ors. Vs. State of Rajasthan & Ors. The another writ petition being S.B. Civil Writ Petition No.5049/2003 has been filed jointly by four petitioners, wherein Ms. Sunita Daukiya is mentioned at petitioner no.3. The following prayer has been made in S.B. Civil Writ Petition No.5049/2003 : -

> "A. By an appropriate writ, order or direction, the respondents may kindly be directed to make the selection with the gender ratio adopted for imparting the training course i.e. 70% females which are a criteria in advertisement dt. 19.2.2003.
>
> B. By an appropriate writ, order or direction rule 7B of the rules of 1965 may be declared ultra vires as far as it restricts the sex ratio to 30% for the female reservation/preference.
>
> B. By an appropriate writ, order or direction, the respondents may kindly be directed to give appointments in accordance with the registration to the trained candidates as in past up to 1999 or otherwise conduct a entrance examination like all other selection process.
>
> C. By an appropriate writ, order or direction, the respondents may kindly be directed to consider the marks of the examination of the Nursing Training Course only and Senior Higher Secondary School have a value of qualifying examination only.
>
> D. By an appropriate writ, order or direction, the

> respondents may kindly be directed to make the selection strictly in accordance with the rules and the mandate of the Constitution and also the illegal temporary services of 568 candidates may be included in the present exercise of the selection process.
>
> E. Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners.
>
> F. Writ petition filed by the petitioners may kindly be allowed."

A comparison of the two sets of prayer clauses in both the writ petitions would make it clear that the petitioner Smt. Sunita Daukiya in the present writ petition has prayed that the respondents may be directed to consider the marks of the examination of Nursing Training Course only and if marks of Senior Higher Secondary are to be taken into consideration then it may only consider such candidates having Science Group (Physics, Chemistry & Biology). She further prayed that upto 1999 of making appointment as per registration number was a reasonable criteria therefore, the respondents may be directed to continue it any if any change is made, the criteria should be published alongiwth the notification inviting application to fill up the posts. In the second writ petition, i.e., S.B. Civil Writ Petition No.5049/2003, almost similar prayers have been repeated with reference to subsequent advertisement with

certain other prayers too. In the beginning, it has been prayed that respondents may be directed to make selection with the gender ratio adopted for imparting the training course i.e., 70% females which are a criteria in advertisement dated 19.2.2003. It has further been prayed that rule 7B of the Rules of 1965 may be declared ultra vires as far as it restricts the sex ratio to 30% for the female reservation/preference. The petitioners have further prayed that respondents may be directed to give appointments in accordance with the registration of the trained candidates as in past up to 1999 or otherwise conduct a entrance examination like all other selection process and the respondents may be directed to consider the marks of the examination of the Nursing Training Course only and Senior Higher Secondary School have a value of qualifying examination only and the respondents may be directed to make the selection strictly in accordance with the rules and the mandate of the Constitution.

When the petitioner Ms. Sunita Daukiya has joined the three petitioners in filing another writ petition with the same prayers, in my view, keeping the present writ petition, would not serve any purpose as one person cannot be allowed to avail parallel remedies, more particularly, when both the remedies are pending before this Court. The petitioner can very well raise her

arguments for redressal her grievances in one single petition.

In view of the above, this writ petition is hereby dismissed.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-